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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,216	04/16/2004	John Amico	32798-2003	7252
33721	7590	03/29/2006	EXAMINER	
TORYS LLP 79 WELLINGTON ST. WEST SUITE 3000 TORONTO, ON M5K 1N2 CANADA			AZARIAN, SEYED H	
			ART UNIT	PAPER NUMBER
			2624	
DATE MAILED: 03/29/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/825,216

Applicant(s)

AMICO ET AL.

Examiner

Seyed Azarian

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 57-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 4-56 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

**RESPONSE TO AMENDMENT**

1. Applicant's amendment filed, 2/21/2006, see page 19 of the remarks, with respect to the rejection of claims 1- 71, have been fully considered but they are not persuasive.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.3218 may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3 and 57-71, rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No.

10/492,722. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

As an example consider claim 1, of current application, compared to claim 1, of copending application, it disclose a method of digitizing shapes, said method comprising the steps of :

receiving at least one data representing at least one shape; identifying at least one outline of the at least one shape in the at least one data, wherein the outline has a curvature; and identifying at least one corner of the at least one outline wherein said corner is identified by calculating the curvature of the outline in a neighborhood of a point on the outline and determining whether the curvature is at least a pre-defined minimum value.

As an example consider claim 2, discloses a system for digitizing shapes, said system comprising: a memory arrangement including thereon a computer program; and a processing arrangement which, when executing the computer program is configured to: receive at least one data representing at least one shape, identify at least one outline of the at least one shape in the at least one data, wherein the outline has a curvature; and identify at least one corner having a relatively large average curvature of the at least one outline wherein said corner is identified by calculating the curvature of the outline in a neighborhood of a point on the outline and determining whether the curvature is at least a pre-defined minimum value.

As an example consider claim 3, discloses software stored in a computer-readable storage medium which, when executed by a processing arrangement, is configured to digitize shapes, said software storage medium comprising, a software program including: a first module which, when executed, receives at least one data representing at least one shape, a second module which, when executed, identifies at least one outline of the at least one shape in the at least one data, wherein the outline has a curvature and, a third module which, when executed, identifies at least one corner having a relatively large average curvature of the at least one outline wherein said corner is identified by calculating the curvature of the outline in a neighborhood of a point on the outline and determining whether the curvature is at least a pre-defined minimum value.

The scope of the claimed invention is fully disclosed in the '722 patent, and the claims of the application are generic compared to the patented claims, which is directed to a specific species.

3. Claims 4-56 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group two, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/30/2005.

#### Other prior art cited

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(U.S. patent 6,587,745) to Polden et al is cited for curved line fill stitching in embroidery designs.

(U.S. patent 4,780,960) to Merz is cited for pattern, process and apparatus for obtaining a cutting template.

(U.S. patent 5,815,398) to Dighe et al is cited for method and apparatus for placing parts in a bounded region.

(U.S. patent 4,583,181) to Gerber et al is cited for fabric flaw related system.

(U.S. patent 5,831,857) to Clarino et al is cited for pattern alignment and cutting system.

(U.S. patent 4,575,628) to Bankart et al is cited for pattern scanner providing data to a computer, which carries out lay planning.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### **Contact Information**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seyed Azarian whose telephone number is (571) 272-7443. The examiner can normally be reached on Monday through Thursday from 6:00 a.m. to 7:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu, can be reached at (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an

application may be obtained from the Patent Application information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR.

Status information about the PAIR system, see [http:// pair-direct.uspto.gov](http://pair-direct.uspto.gov). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seyed Azarian  
Patent Examiner  
Group Art Unit 2624  
March 23, 2006

  
**JINGGEWU**  
**PRIMARY EXAMINER**